

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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BILL DRAFT 2013-RBz-46D [v.2] (03/18)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)

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Short Title: Farm exemption certificate.

(Public)

Sponsors: (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ADDRESS THE SALES TAX CERTIFICATE OF EXEMPTION FOR
3 QUALIFYING PURCHASES FOR USE BY A FARMER.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 105-164.13E reads as rewritten:

6 "**§ 105-164.13E. Exemption for qualifying farmers.**

7 A qualifying farmer is a person who has an annual gross income for the preceding taxable
8 year of ten thousand dollars (\$10,000) or more from farming operations or who has an average
9 annual gross income for the three preceding taxable years of ten thousand dollars (\$10,000) or
10 more from farming operations. A qualifying farmer includes a dairy operator, a poultry farmer,
11 an egg producer, a livestock farmer, a farmer of crops, and a farmer of an aquatic species, as
12 defined in G.S. 106-758. A qualifying farmer may apply to the Secretary for an exemption
13 certificate number under G.S. 105-164.28A. The exemption certificate expires when a person
14 fails to meet the income threshold for three consecutive years or ceases to engage in farming
15 operations. The

16 The following tangible personal property, digital property, and services are exempt from
17 sales and use tax if purchased by a qualifying farmer and for use by the farmer in the planting,
18 cultivating, harvesting, or curing of farm crops or in the production of dairy products, eggs, or
19 ~~animals. A qualifying farmer is a farmer who has an annual gross income of ten thousand~~
20 ~~dollars (\$10,000) or more from farming operations for the preceding calendar year and includes~~
21 ~~a dairy operator, a poultry farmer, an egg producer, a livestock farmer, a farmer of crops, and a~~
22 ~~farmer of an aquatic species, as defined in G.S. 106-758:animals:~~

23 ..."

24 **SECTION 2.** G.S. 105-164.28A(a) reads as rewritten:

25 "(a) Authorization. – The Secretary may require a person who purchases an item that is
26 exempt from tax or is subject to a preferential rate of tax depending on the status of the
27 purchaser or the intended use of the item to obtain an exemption certificate from the
28 Department to receive the exemption or preferential rate. ~~An~~ The Department must issue a
29 preferential rate or use-based exemption number to a person who qualifies for the exemption or
30 preferential rate. The number must be included on the person's certificate of exemption. A
31 person who no longer qualifies for a preferential rate or use-based exemption number must
32 notify the Secretary within 30 days to cancel the number.

33 An exemption certificate issued by the purchaser authorizes a retailer to sell an item to the
34 holder of the certificate and either collect tax at a preferential rate or not collect tax on the sale,



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1 as appropriate. A person who no longer qualifies for an exemption certificate must give notice
2 to each seller that may rely on the exemption certificate on or before the next purchase. A
3 person who purchases an item under an exemption certificate is liable for any tax due on the
4 sale-purchase if the Department determines that the person is not eligible for the ~~certificate.~~
5 exemption certificate or if the person purchased items that do not qualify for an exemption
6 under the exemption certificate. The liability is relieved when the seller obtains the purchaser's
7 name, address, type of business, reason for exemption, and exemption number in lieu of
8 obtaining an exemption certificate."

9 **SECTION 3.(a)** A person who has an agricultural exemption certificate number
10 issued prior to July 1, 2014, that meets the requirements of G.S. 105-164.13E for a qualifying
11 farmer should apply for a new agricultural exemption certificate number before July 1, 2014,
12 for use for qualifying purchases made on or after October 1, 2014. A person that meets the
13 requirements of G.S. 105-164.13E for a qualifying farmer and who has an agricultural
14 exemption certificate number issued prior to July 1, 2014, may continue to use that agricultural
15 exemption certificate number for qualifying purchases made prior to October 1, 2014.

16 **SECTION 3.(b)** A person who has an agricultural exemption certificate number
17 issued before July 1, 2014, that does not meet the requirements of G.S. 105-164.13E for a
18 qualifying farmer must give notice to a seller that the person no longer qualifies for an
19 exemption for purchases made on or after July 1, 2014, and the seller must collect any tax due
20 on the sale. A seller that relies on a copy of an agricultural certificate of exemption and meets
21 the requirements of G.S. 105-164.28 is not liable for any tax due on the sale.

22 **SECTION 4.** This act becomes effective July 1, 2014, and applies to purchases
23 made on or after that date.